



**Testimony of
Karen Hobert Flynn
Vice President for State Operations
Common Cause
Before the Government Administration and Elections Committee
Monday, March 7, 2011**

My name is Karen Hobert Flynn and I am the Vice President of State Operations for the national organization of Common Cause and former executive director, and then Chair of Common Cause in Connecticut, and I was one of the advocates who worked to urge the General Assembly and the Governor to pass the Citizens Election Program in 2005, as well as important fixes to that law in 2006, 2007 and 2010.

Common Cause in Connecticut is a nonpartisan, nonprofit citizen lobby that works to improve the way Connecticut's government operates. Common Cause has more than 400,000 members around the country and 35 state chapters. We have approximately 7200 members and activists in Connecticut.

I am here today to testify on SB 1009, An Act Creating the Office of Governmental Accountability. Common Cause applauds the Governor's efforts to put forth a responsible budget that responds to the current fiscal crisis by taking a hard look at a \$3 billion deficit and proposes cuts in spending, consolidation of some government agencies, and increases in taxes. Without a doubt, all programs and state agencies will have to bear their fair share of the burden of cut. And the watchdog agencies are no different.

The challenge here is that this budget is ambitious, and it was put together in a month. Common Cause is here today to urge you to take a close look at the details of An Act Creating the Office of Governmental Accountability because we believe there are fundamental problems with this proposal that will remove the watchdog agencies' independence, create an agency at odds with itself, and severely inhibit the agency's ability to watchdog state ethics, freedom of information, campaign finance laws, as well as audit state contracts and investigate complaints against judges and others.

First, I would like to outline the problems with the proposal to merge the State Elections Enforcement Commission, Freedom of Information Commission, the Judicial Review Council, the Contracting Standards Board, and the Office of State Ethics into one entity – the office of Government Accountability. Common Cause is particularly concerned with the impact of this consolidation will have on the three watchdog groups – Freedom of Information, Ethics and Elections because we believe this proposal will undercut these agencies' important roles as independent watchdogs of government freedom of information, ethics and campaign finance laws. Next, I will suggest several possible solutions – although I do not claim to be an expert on the ins and outs of all

that these state agencies do. I would urge the legislature to seek input from the experts who are members of these commissions for suggestions of areas where consolidation would create unworkable conflicts, as well as areas of possible consolidation that can help streamline efficiencies.

Common Cause is worried about four principal problems with this proposal:

1. The consolidation of the watchdog agencies removes their independence.
2. There are substantial conflicts with the mission and duties of these agencies that make consolidation in substantive/program and legal matters incompatible.
3. The cuts to these agencies are disproportionately high and will inhibit their ability to effectively do their important work.
4. Adding the work of an unfunded agency such as the State Contracting Review board – which has a huge mandate to examine the process for procurement of billions of dollars of state contracts with triennial process audits – will be a huge resource drain on the watchdog agencies which will have to get their workload done with at least 20% of their staff eliminated.

Watchdogs Must Remain Independent

Despite several Administration officials' statements in the press that the watchdog agencies will remain independent, that is not the way this proposal is structured. The Governor would appoint a commissioner at \$150,000 a year, and there would be a deputy commissioner making \$120,000 a year and an executive assistant at \$65,000 a year. All of the agency heads and many senior managers who have a great deal of policy expertise would be laid off and the Commissioner – who answers to the Governor - will hire four or five directors. Agency staff would be consolidated, including the attorneys who do much of the investigative and enforcement work for several of the agencies.

The watchdog agencies have been carefully designed to have citizen commissions select an Executive director to ensure independence from those they regulate. The Governor's plans to appoint the Executive Director of the Office of Governmental Accountability creates the appearance that his office controls the watchdog commissions. A careful reading of the proposal as drafted shows that the Executive Director of the OGA, selected and answerable to the Governor, will be able to control the allocation of agency resources – such as where staff attorneys or auditors focus their work. To date, those duties and decisions have been carefully vested in staff and citizen commissions to ensure independence.

The watchdogs must maintain their independence of the Governor's office. The Executive Directors of the three watchdog groups are selected by their commissions. Those carefully structured citizen boards are made up of Democrats, Republicans and independents to ensure and balance fairness and to avoid gridlock. For example, the board members of the State Elections Enforcement Commission are selected by the Governor, Speaker, Senate President and the Minority leaders of the House and Senate so that one branch of government or one party doesn't exercise undue influence over the commission's important work.

These agencies have been independent of the Governor and the legislatures' control – for good reason. We all remember the problems with Governor Rowland who tried to merge the three agencies and slash their budgets when he was under investigation by both the Ethics and Elections Enforcement commissions. But even Governor Rell's chief of staff and Rell's campaign came under investigation in the last few years. Problems may not crop up in this administration, but we need to worry about future administrations as well. This is a headache that no Governor needs -- if the Governor is seen as controlling the agency that conducts an ethics or campaign finance investigation, there will always be questions by the media and partisan interests about any decision reached.

The Five Agencies Have Missions Incompatible with Consolidation

With a few minor exceptions, these are distinct agencies with unique functions with very little overlap. The personnel has specialized knowledge and skills to perform separate duties. Each commission is charged with enforcing an entirely different set of laws, and given the unique number of responsibilities, there is little duplication of services. Some business office and administrative functions could offer some minimal savings, but not enough to offset the harm a merger would do to these agencies' important good government service.

For example, Elections Enforcement Commission and the Office of State Ethics each conduct investigations and keep their law enforcement records confidential. The Freedom of Information Commission concerns itself with making information public and is required by law to ensure its records and activities are open to the public. Merging these agencies into one agency would lead to incompatible and competing forces – the duty to keep investigations confidential and the duty to make information public.

Additionally, the consolidation of the three separate agencies would remove the watchdog abilities the agencies currently hold over each other. With the different jurisdictions, methodologies and confidentiality procedures, this über agency would be unable to effectively and fairly oversee itself. For example, if a citizen files a complaint that the Elections Enforcement Commission or the Office of State Ethics has violated the FOI Act, the watchdog agency would be both the respondent and judge. It is unlikely that the new commission would bring ethics charges against itself, and this watchdog agency would undermine the public's confidence and would have to grapple with perpetual conflicts of interest. A perfect example of this problem is that right now the Office of State Ethics is in court appealing a decision of the Freedom of Information Commission. It is not improbable that a judge trial referee, who presides over an enforcement matter at the Office of State Ethics could become the subject of a matter before the Judicial Review Council.

Cuts are High for Watchdog Agencies

The Governor's budget cuts the number of state agencies by 30% - from 81 to 57 state agencies with a savings of \$10 million. Common Cause is concerned that the starting point of 15% of the costs of this consolidation comes from the smallest agencies and frankly, the agencies that have some of the most important jobs of a democracy -- to

ensure the integrity of how our state government operates. In addition, the proposal adds a great deal of new work by adding the State Contracting Standards Board and its currently unfunded mandate

State Contracting Standards Board

The bill creating the State Contracting Standards Board was passed by the General Assembly in 2005, and on June 30, 2005, Governor Rell vetoed PA 05-286 and issued Executive Order No. 7 which contained many similar provisions and added some new provisions to the law. The goal of this independent commission is to ensure that the state contracting and procurement processes are efficient, consistent and above reproach. The SCSB's mission is to develop a procurement code, including standards to evaluate privatization contracts and to conduct compliance audits of billions of dollars of state contracts triennially.

The challenge is that the SCSB has never been funded to do its work and the mandate and work to carry out its mission is substantial and highly specialized, which will divert the time and attention of the smaller consolidated agency to take on this additional workload. We urge you to talk with the chair of the SCSB to assess both the scope of the work of this agency and the highly specialized needs of its staff to do that work. Since OPM currently sets the standards for procurement, perhaps it makes more sense for this agency to merge with OPM.

Options for Streamlining Functions

Common Cause is not suggesting that the watchdog agencies can't be streamlined or share back office functions. The Governor's proposal undermines the independence of these agencies and merges more than administrative functions.

We believe that there are many options for cost savings and streamlining administrative functions without undermining their independence. As you will hear from representatives of these state agencies today and over the coming weeks, there are proposals to:

1. Merge the work of the Judicial Review council within State Elections Enforcement;
2. Have the Secretary of the States' office take back some limited functions that the SEEC has acquired in recent years;
3. Create a memorandum of understanding between the watchdog agencies to consolidate the back office functions in the areas of IT, human resources, communications, fiscal affairs, and legislative liaisons;
4. The heads of the five agencies could hire an Administrator to manage back office functions to streamline those activities; and
5. Incorporate State Contracting Standards Board into OPM.

There are many options that could work and that cut costs without crippling these agencies' ability to do their important work as the independent agencies tasked with ensuring the openness and integrity of Connecticut state government.

Citizens' Election Program

Common Cause wants to point out our strong opposition to section 43 of the Governor's budget, H.B. bill 6380 which reduces the amount of the FY 12 allotment to the Citizens Election Fund from roughly \$18.373 million to \$10.6 million. The main problem with this is it would be a permanent cut to the fund because allotments are calculated on the basis of the prior year's deposit to the CEP.

The Governor states he is committed to the Citizens' Election program now and in the future but this provision threatens the viability of the program as soon as 2014. The CEP has approximately \$8.2 million in the CEP. The Citizens' Election fund will receive another \$10.6 million in four installments before the 2012 elections. General Assembly elections cost \$9.5 million in 2010. We can expect them to cost that, or slightly more in 2012. If 2012 elections cost \$10 million, there will be roughly \$8 million in the fund, with quarterly allocations totaling \$10.6 million coming into the fund before the 2014 elections. The cost of statewide and General Assembly elections in 2010 was \$27.3 million and it is hard to imagine that the \$18 million that will be in the fund based on the Governor's budget proposal will be enough for the system to operate the way it should. If there are insufficient funds, the Commission by law must reduce payment amounts to candidates and allow them to raise money from prohibited sources – like PACs and wealthy donors to fill the gap. That will be a devastating blow to this historic and sweeping good government program.

Budget Safeguards for Watchdog Agencies

We also are opposed to Section 17 of S.B. 1000 which would repeal an important good government protection when Public Act 4-204 passed to prohibit the governor from reducing the annual budgets of the State Ethics, State Elections Enforcement, and Freedom of Information commissions. The law also requires the Office of Policy and Management (OPM) secretary to include in the proposed budget documents that OPM submits to the legislature the estimates of expenditure requirements, together with any recommended adjustments and revisions that the office receives from the executive directors of the commissions. It is important to keep this protection in place to insulate the watchdog agencies from potential political pressure from a single politician.

Thank you for your time and consideration. We look forward to working together to ensure the future of these important reforms.